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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,478	05/29/2001	Kunihiro Tabuchi	P107390-00005	4389

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EXAMINER

HAWKINS, CHERYL N

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,478

Applicant(s)

TABUCHI, KUNIHIRO

Examiner

Cheryl N Hawkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1, 2 and 9-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majkrzak (US 6,294,038) in view of Voy et al. (US 5,351,426). Majkrzak discloses a label-pasting device (Figures 2a and 2b) comprising an adhesive applier (adhesive coating unit 118) for applying hot-melt pressure-sensitive adhesive (column 14, line 45) to a label-material sheet composed of only label material (label material 104) just before cutting out the labels; a die cutter (die cutting application unit 124) for cutting out labels from the label-material sheet with the hot-melt adhesive; and a label paster (vacuum transfer 128) for pasting the cut-out labels on a packing sheet (temporary carrier material 106); wherein the label-pasting device produces labels without using peeling-off paper (abstract).

As to Claim 3, Majkrzak is silent as to the adhesive applier applying the adhesive to an area within the outline of, and smaller than, each cut portion of the sheet material to be cut out by the cutter. Voy et al. discloses problems regarding adhesive backed die-cut labels bonded to a carrier sheet and wound into a roll, which include the migration of adhesive beyond the peripheries of the labels which causes surfaces within the roll to stick together and interferes

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with dispensing the labels from the carrier sheet (column 3, line 63 through column 2, line 10).

Voy et al. further discloses that the problems encountered by this adhesive migration can be prevented by utilizing an adhesive applicator (Figure 1, adhesive application station 34, adhesive applicator 41) to provide label material with adhesive zones which are inwardly spaced or recessed from the outer periphery of the labels to be die cut (Figure 5, label periphery 115, adhesive zone 105, adhesive zone periphery 106, labels 117); this careful placement of the adhesive zones also prevents the die cutting assembly from becoming jammed or fouled by contact with adhesive (column 10, lines 44-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the adhesive applicator of Majkrzak to apply adhesive to an area within the outline of, and smaller than, each cut portion of the sheet material to be cut out by the cutter such as that disclosed by Voy et al. to prevent problems concerning migration of the adhesive past the periphery of the label, as well as to prevent jamming the die cutting assembly with adhesive.

As to Claim 4, Majkrzak discloses a label-pasting device in which the adhesive applicator and the die cutter are synchronized (Figure 2a and 2b; adhesive coating unit 118, die cutting application unit 124).

As to Claim 5, Majkrzak discloses a label-pasting device (Figures 2b) in which an anvil roller (vacuum transfer 128) constituting the die cutter serves as the label paster too; and the anvil roller is disposed so as to be rotatable in contact with a running surface of the packing sheet (temporary carrier material 106) and provided with a vacuum mechanism which sucks each cut-out label onto the periphery of the anvil roller unit the label is pasted on the packing sheet (column 14, lines 50-55).

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3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Majkrzak (US 6,294,038) and Voy et al. (US 5,351,426) as applied to claim 3 above, and further in view of Nash (US 5,674,345) and Otruba (US 5,486,253). The references as combined do not disclose a label-pasting device in which the label paster comprises a conveying belt disposed between an anvil roller and the top surface of a packaging sheet. Nash discloses a labeling apparatus which includes an anvil roller (Figure 1, anvil cylinder 21) which is separated from the running surface of an envelope and a conveying belt (Figure 1, transport mechanism 30) which is disposed between the anvil roller and the top surface of the envelope and carries each label received from the anvil roller in the running direction of the envelope to ensure that the labels stay in place until it is desired to remove them and place them onto envelopes, as well as to print desired indicia onto each label (column 4, lines 12-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the label paster of Majkrzak to include a conveying belt which is disposed between the anvil roller and the top surface of the packaging sheet as suggested by Nash to ensure that the labels stay in position with a desired spacing therebetween until their placement onto the packing sheet, as well as to print desired indicia onto each label.

Also, the references as combined do not disclose a labeling apparatus having a pressing belt for pressing each label. It is well known and conventional in the labeling apparatus art, as disclosed by Otruba (Figure 1, compression belt 34), to utilize a pressing belt to ensure intimate bonding between labels and the substrate to which the labels are being applied. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of the references as combined to include a pressing belt as suggested by Otruba which

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is disposed on the downstream side of the conveying belt to ensure intimate bonding between the labels and the packaging sheet.

Allowable Subject Matter

4. Claims 7 and 8 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: As to Claim 7, the prior art of record does not disclose or provide any motivation for one of ordinary skill in the art to modify the apparatus of Majkrzak to include a vacuum belt unit disposed on the exit side of the die cutter, the vacuum belt unit including a small-diameter roller disposed close to the exit of the die cutter; a large-diameter roller which is disposed so as to be in contact with the packing sheet and provided with a vacuum mechanism; and a vacuum belt which is laid around the small-diameter roller and the large-diameter roller and has many ventholes.

Response to Arguments

6. In response to the applicant's amendment to Claim 6, the objection of Claim 6 has been withdrawn.

7. In response to the applicant's arguments that Voy et al. does not teach or suggest that the adhesive applicer apply pressure-sensitive adhesive to a label-material sheet composed of only label material, it is noted that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642

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F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The primary reference (Majkrzak) discloses an adhesive applier which applies a pressure-sensitive adhesive to a label-material sheet composed of only label material (Figure 2b, adhesive coating unit 118). Consequently, the reference of Voy et al. is not relied upon to disclose an adhesive applier which applies pressure-sensitive adhesive to a label-material sheet composed of only label material, but is relied upon to disclose motivation for modifying the adhesive applier of Majkrzak to apply the adhesive to an area within the outline of, and smaller than, each cut portion of the sheet material to be cut out by the cutter to prevent problems concerning migration of the adhesive past the periphery of the label and to prevent jamming the die cutting assembly with adhesive.

In response to the applicant's arguments that the Voy et al. system would not be expected to work and/or achieve its objectives without the use of the carrier sheet, the examiner notes that the reference of Majkrzak discloses placing the cut adhesive labels onto a temporary reusable carrier sheet (Figure 2b, temporary reusable carrier 106) to form a sheet of label stock (Figure 2b, temporary carrier assembly 140), therefore the examiner asserts that the label-pasting device of Majkrzak as modified by the teachings of Voy et al. would be expected to work and achieve the objectives detailed in the reference of Voy et al.

In response to the applicant's arguments that it would have not been obvious to modify the Majkrzak linerless label system to use the lined labels of Voy et al., the examiner notes that rejection set forth above does not suggest modifying the Majkrzak linerless label system to use the lined labels of Voy et al., but suggests modifying the adhesive applier in the Majkrzak linerless label system to apply the adhesive to an area within the outline of, and smaller than,

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each cut portion of the sheet material to be cut out by the cutter as taught by Voy et al. to prevent problems concerning migration of the adhesive past the periphery of the label and to prevent jamming the die cutting assembly with adhesive.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl N Hawkins whose telephone number is (571) 272-1229. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A Fiorilla can be reached on (517) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cheryl N. Hawkins
September 20, 2004


CHRIS FIORILLA
SUPERVISORY PATENT EXAMINER